

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

JUDITH A. WAGNER, Chapter
11 Trustee of the bankruptcy estate
of the Vaughan Company, Realtors,

Plaintiff,

v.

Master Case NO. 12-CV-00817-WJ-SMV
(Case No. 12-CV-00413-WJ-SMV)

JULIUS WOLLEN, as Trustee of the Julius M.
& Diane Wollen Revocable Trust, dated
October 20, 1993, JULIUS WOLLEN and DIANE
WOLLEN, husband and wife,

Defendants.

**ORDER GRANTING UNOPPOSED MOTION
TO APPOINT GUARDIAN AD LITEM**

The matter comes before the Court on the Unopposed Motion of the Plaintiff for Appointment of a Guardian *Ad Litem*, which seeks the appointment of a Guardian *Ad Litem* for Julius Wollen, in his individual capacity, as Trustee of the Julius M. & Diane Wollen Revocable Trust and for Diane Wollen, in her individual capacity (collectively the “Defendants”). Having considered the representations and statements of the parties at various Status Conferences, the consent of and representations of all of the now adult children of Julius and Diane Wollen (hereinafter “Wollen Children”) as set forth below, and the pleadings of record, and being otherwise fully advised, the Court FINDS:

1. Defendants’ counsel has represented that Defendant Julius Wollen is in ill health and under medical treatment and that Diane Wollen suffers from serious, debilitating and life altering health problems. She will require care for the rest of her life. Based on these representations, the Plaintiff is concerned about Julius Wollen’s competency to make decisions

for himself, his wife Diane Wollen, (from whom he has a General Power of Attorney, dated May 2, 1985) and for the Trust, in his capacity as Trustee of the Julius M. & Diane Wollen Revocable Trust, dated October 20, 1993.

2. The Wollen Children are David Wollen, Rachel Wollen Adent, Jonathan Wollen, Dan Wollen and Deborah Wollen Fathree. Defendants and their attorney represent that these are the only children and heirs of Julius and Diane Wollen and that no children of Julius and Diane Wollen have pre-deceased them.

3. The Defendants' attorney, Jennie D. Behles, in consultation with Julius Wollen and the Wollen Children has agreed in principal to a settlement (hereinafter "Settlement") of this matter on behalf of the Defendants. The terms of the proposed Settlement are set forth in the *Motion to Approve Settlement of District Court Adversary Proceeding 12-CV-00413-WJ-SMV f/k/a Bankruptcy Court Adversary Proceeding 11-1188-j Against Wollens* filed in the bankruptcy court case of *In re: Vaughan Company Realtors*, 10-10759-j11, Docket No. 1694. The Settlement was approved by the U.S. Bankruptcy Court on March 12, 2014, at Docket No. 1768. The Settlement is further subject to approval by this Court and the appointment by this Court of a Guardian *Ad Litem* for Julius Wollen, Diane Wollen, and Julius Wollen as Trustee of the Julius M. & Diane Wollen Revocable Trust, dated October 20, 1993.

4. The parties and the Wollen Children agree that Dr. David Wollen, one of the Wollen Children, be appointed as Guardian *Ad Litem* for Julius Wollen, Diane Wollen, and Julius Wollen as Trustee of the Julius M. & Diane Wollen Revocable Trust, dated October 20, 1993, and that he be empowered, as Guardian *Ad Litem*, to review, affirm and enter into a binding settlement of this matter, make recommendations to this Court regarding the

reasonableness and fairness of the settlement and seek approval thereof, if he believes the settlement is reasonable and fair.

5. By their signatures below, each of the Wollen Children represents, acknowledges and affirms that she or he has sought his or her own legal counsel in this matter, agrees to the appointment of Dr. David Wollen as Guardian *ad litem* and agrees to indemnify Judith Wagner, Ch. 11 Trustee for the estate of The Vaughan Company, Realtors, for any and all damages, costs and fees that she incurs as a result of any challenge to this settlement, brought after approval by this Court, and made on the basis that Julius and Diane Wollen were not competent to enter into this settlement or that the court improvidently appointed Dr. David Wollen as Guardian *ad litem* rather than some other person not related to the Defendants.

IT IS HEREBY ORDERED THAT:

A. Dr. David Wollen be and hereby is appointed Guardian *Ad Litem*, for Julius Wollen, Diane Wollen, and Julius Wollen as Trustee of the Julius M. & Diane Wollen Revocable Trust, dated October 20, 1993, for the purpose of affirming and consummating a settlement agreement that has been reached between the parties.

B. Dr. David Wollen, as Guardian *Ad Litem* be and hereby is empowered to take any and all actions necessary to affirm and consummate the settlement agreement that that has been reached between the parties hereto; including making recommendations to this Court regarding the reasonableness and fairness of the settlement and seek approval thereof, if believes the settlement is reasonable and fair.

C. Dr. David Wollen, as Guardian *Ad Litem*, shall not be entitled to any compensation from the VCR bankruptcy estate.



HONORABLE STEPHAN M. VIDMAR
UNITED STATES MAGISTRATE JUDGE

Approved by:

BEHLES LAW FIRM, P.C.

By: Approved by e-mail March 19, 2014

Jennie D. Behles

P.O. Box 7070

Albuquerque, NM 87194-7070

505-242-7004

505-242-7066 (fax)

Attorney for Defendants

ASKEW & MAZEL, LLC

By: Approved March 19, 2014

James A. Askew

Edward A. Mazel

Daniel A. White

320 Gold Ave. SW, Suite 300A

Albuquerque, NM 87102

505-433-3097

505-717-1494 (fax)

Attorneys for Plaintiff

-and-

Maureen A. Sanders

SANDERS & WESTBROOK, P.C.

102 Granite Avenue, NW

Albuquerque, NM 87102

(505) 243-2243

(505) 243-2750 (fax)

Special Counsel for Plaintiff

By: Signature on file with Counsel for the parties
Dr. David Wollen
11809 Baccarat Lane NE
Albuquerque, NM 87111

By: Signature on file with Counsel for the parties
Rachel Wollen Adent
10800 Pennyback Pk. NE
Albuquerque, NM 87123

By: Signature on file with Counsel for the parties
Jonathan Wollen
5218 Manitou Rd.
Middleton, CO 80123

By: Signature on file with Counsel for the parties
Dan Wollen
21544 Kings Pointe Blvd. #307
Brownstown, MI 48183

By: Signature on file with Counsel for the parties
Deborah Wollen Fathree
111 S. Muskogee Ave.
Claremore, OK 74017